

## CHAPTER VI

## TRADE REGULATIONS, CUSTOMS AND STANDARDS

### A. TRADE BARRIERS, INCLUDING TARIFF AND NON-TARIFF BARRIERS

According to the Japan Tariff Association, the average applied tariff in Japan is one of the lowest in the world. There are notable exceptions including leather goods and many agricultural products. Also, import duties on certain processed foods and manufactured goods remain relatively high. However, import duties on many agricultural items continue to decrease, and tariffs in many major sectors, such as autos and auto parts, software, computers, and industrial machinery are zero.

Japan is known to have a multitude of means by which foreign products are either kept out or delayed entry into the domestic Japanese market. The range of tactics runs from overt political and economic actions to differences in business culture and traditions. The latter are often rooted in Japanese values that make them unassailable in any practical manner. Since to attempt to change the practice risks being perceived as attacking the culture. Within this range are a variety of non-tariff barriers, including:

establishing standards unique to Japan (formal, informal, de facto, or otherwise);

a requirement for companies to demonstrate prior experience in Japan, effectively shutting out new entrants in the market;

official regulations that favor domestically-produced products and discriminate against foreign products;

licensing powers in the hands of industry associations with limited membership, strong market influence, and the ability to control information and operating without oversight;

cross stock holding and interconnection of business interests among Japanese companies that disadvantages suppliers outside of the business group;

cartels (both formal and informal); and

the cultural importance of personal relationships in Japan and the reluctance to break or modify business relationships.

For any firm that attempts to overcome these non-tariff barriers, the tools available depend on the industry, the product or service's competitiveness, and the creativity and determination of the firm's management. In addition, it is important to note that these non-tariff barriers do not exist in a market free of competition. Japan is a large and sophisticated market, and the competition can be fierce. A fair number of companies have benefited or failed simply as a result of timing. However, the vast majority of successful foreign companies have had to evaluate and adjust their initial market strategy as their understanding of the market, the rules of the Japanese "system," and their ability to accommodate those rules increased.

## B. CUSTOMS REGULATIONS

Tariff duties are assessed on the CIF value at ad valorem or specific rates, and in a few cases, are charged a combination of both. Japan's Ministry of Finance maintains a website that describes import clearance, customs, provides contact information and other information in detail and in English (<http://www.mof.go.jp> Click "For English," "Links," "Japan Customs").

Japanese customs regulations, like those of the United States, can be cumbersome, difficult to understand, and sometimes frustrating, but they are largely mechanical. Nearly all customs difficulties arise from first-time applications. Japanese customs officials are generally very helpful explaining procedures and regulations, and once these are understood and followed, difficulties are minor and rare.

Certain products are prohibited import into Japan. These include narcotics, firearms, counterfeit currency, pornography, and products that violate intellectual property laws. In addition, a large number of products (including those related to health such as medical products, pharmaceuticals, agriculture products, chemicals and explosives) have restrictions of some form governing sale or use and must be evaluated for import suitability before shipment to Japan.

## C. TARIFF RATES

The Customs and Tariff Bureau of Japan's Ministry of Finance administer tariffs. As a member of the Harmonized System Convention, Japan share the same trade classification system as the United States (limited to six-digit code). Japan's tariff schedule has four columns of applicable rates: general, WTO, preferential, and temporary. Goods from the United States are charged WTO rates unless a lesser "temporary" rate exists. Japan's preferential systems of tariffs grants lower or duty-free rates to products imported from developing countries.

A simplified tariff system for low-value imported freight valued at less than 100,000 yen, such as small packages for personal imports, simplifies determination of tariff rates. This system also eliminates the extra time necessary to classify the product and its precise value, and thereby minimizes customs brokers' handling charges. Importers can choose either the normal rate or the simple tariff, which could be higher or lower. Japanese Customs can provide an advance ruling on tariff classification and duty rates.

## D. IMPORT TAXES INCLUDING VALUE ADDED TAXES, PURCHASE TAXES, UPLIFTS AND SURCHARGES, AND LOCAL TAXES

In addition to customs duty, a five percent consumption tax (general excise tax) is levied on all goods sold in Japan. Payment is required at the time of import declaration. The consumption tax is assessed on the CIF value of the product plus the import duty. Duties and consumption tax are payable when making an import declaration at the time of customs clearance by the importer. The Import Declaration Form (Customs Form C 5020) is filled out by the importer and is used as both an import declaration and tax payment declaration form. Packages are exempt from duty and the consumption tax if they contain items with a value of

10,000 yen or less. Certain specific products are exceptions to this rule, such as leather goods, and some knit products.

The Japanese government grants tax credits and other tax incentives to Japanese manufacturers as an incentive to increase imports. The tax credits are calculated as five percent of the amount a manufacturer increases its imports of eligible manufactured goods in a given year (products that are duty free). Importers can defer taxes on certain profits.

#### E. IMPORT LICENSE REQUIREMENTS

Most goods now qualify as "freely importable," and do not require an import license. The only exception is for those commodities that fall under import quota. In these cases, the Japanese importer must apply for license approval. Rice, wheat, rice flour and leather are among the few products for which import quotas remain.

#### F. TEMPORARY GOODS ENTRY REQUIREMENTS

Japan is a member of the International Convention to Facilitate the Importation of Commercial Samples and Advertising Materials under the ATA Carnet System. Use of a Carnet allows goods such as commercial and exhibition samples, professional equipment, musical instruments and television cameras to be carried or sent temporarily into a foreign country without paying duties or posting bonds. A Carnet should be arranged for in advance by contacting a local office of the United States Council for International Business (<http://www.uscib.org/>) or its New York office at Phone: 212-354-4480.

Advertising materials, including brochures, films and photographs, may enter Japan duty free. Articles intended for display but not for sale at trade fairs and similar events are also permitted to enter duty free in Japan only when the fair/event is held at a bonded exhibition site. These bonded articles are required to be re-exported after the event, or stored at a bonded facility. A commercial invoice for these goods should be marked "no commercial value, customs purposes only" and "these goods are for exhibition and are to be returned after conclusion of the exhibition." It is also important to identify the name of the trade show or exhibition site, including exhibition booth number (if known), on shipping documents.

#### G. SPECIAL IMPORT/EXPORT REQUIREMENTS AND CERTIFICATIONS

Documents required for customs clearance in Japan include standard shipping documents such as a commercial invoice, packing list, and an original and signed bill of lading, or, if shipped by air, an air waybill. Air shipments of values greater than ¥100,000 must also include a commercial invoice. The commercial invoice should be as descriptive as possible on each item in the shipment. The packing list should include the exact contents of each container, the gross and net weights of each package, and all container measurements using metric sizes.

Certain items may require a Japanese import license. These include hazardous materials, animals, plants, perishables, and in some cases articles of high value. Import quota items also require an import license, usually valid for four months from the date of issuance. Other

necessary documents for U.S. Exporters may include an Import Declaration Form (Customs Form C-5020) and a certificate of origin if the goods are entitled to favorable duty treatment determined by preferential or WTO rates. In practice, shipments from the United States are routinely assessed using WTO or "temporary" rates without a certificate of origin. Any additional documents necessary as proof of compliance with relevant Japanese laws, standards, and regulations at the time of import may also apply.

## H. LABELING REQUIREMENTS

Correct packing, marking, and labeling are critical to smooth customs clearance in Japan. Straw packing materials are prohibited. As noted above, the Japanese Measurement Law requires that all imported products and shipping documents show metric weights and measures. For most products there is no requirement for country of origin labeling; however, some categories such as beverages and foods do require such labeling. However, if labels indicating origin are determined to be false or misleading, the labels must be removed or corrected. False or misleading labels which display the names of countries, regions or flags other than the country of origin, and/or names of manufacturers or designers outside the country of origin are not permissible.

Items that are required by Japanese law to bear labels cover four product categories: textiles, electrical appliances and apparatuses, plastic products and miscellaneous household/consumer goods. Because all these regulations apply specifically to individual products, it is important to work with a prospective agent/importer to ensure your product meets the requirements, if applicable. In general, most labeling laws are not required at the customs clearance stage, but at the point of sale. Consequently, it is most common for Japanese importers to affix a label before or after clearing customs.

## I. PROHIBITED IMPORTS

Japan strictly prohibits entry of narcotics and related utensils, firearms, firearm parts and ammunition, counterfeit or imitation money, obscene materials, or goods that violate intellectual property rights. The use of chemicals and other additives in foods and cosmetics is severely restricted by regulations that follow a "positive list" approach. Restricted items include but are not limited to certain agricultural and meat products, endangered species and products such as ivory, animal parts and fur whose international trade is banned by international treaty, and more than two months' supply of medicines and cosmetics for personal use.

## J. WARRANTY AND NON-WARRANTY REPAIRS

The warranty and non-warranty repairs vary by product and manufacturer in Japan. In general, the warranty coverage for consumer electrical appliances is one year, and one to five years for auto parts. Japanese machine tool manufacturers set the minimum warranty period at one year. However, since there is a two-year warranty for electrical machinery, the machine tool industry is contemplating lengthening the warranty period to two years. Some manufacturers have a two-year warranty for their own machines. There are no government regulations regarding warranty period. Warranty minimums, if they exist, are generally set by the local

Japanese trade associations. Occasionally manufacturers and retailers offer longer warranty periods as a sales promotional strategy, while Japanese regulatory agencies have rules for non-warranty repairs by products.

## K. EXPORT CONTROLS

As an active member of the Wassenaar Arrangement as well as various international export control regimes, Japan enjoys the least restrictive U.S. export control measures of any destination in the world. At the same time, Japanese firms are engaged in business activities with countries that the U.S. currently has embargoes against. As such, U.S. exporters are encouraged to conduct thorough background research on proposed transactions, especially transshipments through Japan. For the latest in U.S. export and re-export control regulations, please contact the Department of Commerce Bureau of Export Administration (BXA) or check out the web site: [www.bxa.doc.gov](http://www.bxa.doc.gov).

## L. STANDARDS

Many domestic products and imported products alike are subject to product testing and cannot be sold in Japan without certification of compliance with prescribed standards. Some standards are mandatory and some are voluntary. Knowledge of, and adherence to, these standards and their testing procedures can be the key to making or breaking a sale.

Product requirements in Japan fall into two categories: regulations (or mandatory standards) and non-mandatory voluntary standards. Compliance with regulations and standards is also governed by a certification system in which inspection results determine whether or not approval (certification/quality mark) is granted. Approval is generally required to sell a product or even to display it in a trade event; unapproved medical equipment may be displayed if accompanied by a sign indicating that the product is not yet approved for sale. To affix a mandatory quality mark or a voluntary quality mark requires prior product type approval and possibly factory inspections for quality control assessment. Regulated products must bear the appropriate mandatory mark when shipped to Japan in order to clear Japanese Customs. Regulations may apply not only to the product itself, but also with packaging, marking or labeling requirements, testing, transportation and storage, and installation. Compliance with "voluntary" standards and obtaining "voluntary" marks of approval can greatly enhance a product's sales potential and help win Japanese consumer acceptance.

There are two ongoing trends in Japan regarding standards. One is a move toward relaxation of such standards, and the other is a move toward bringing them into harmony with prevailing international standards. While reform is underway, a long list of laws affecting mandatory standards remain on the books, and most have not been translated into English. Therefore, it is important that a Japanese agent or partner be fully aware of the wide variety of legislation that could affect the sale of the exported product in Japan. Main laws and regulations stipulating the standards that apply to products in Japan include the following:

Electrical Appliance and Material Control Law  
Consumer Product Safety Law

Measurement Law  
Gas Utility Industry Law  
Food Sanitation Law  
Law Concerning the Securing of Safety and the Optimization of Transaction of Liquefied Petroleum Gas  
Pharmaceutical Affairs Law  
Road Vehicles Law

The "voluntary" Japan Industrial Standards (JIS) mark, administered by MITI, applies to over 1,000 different industrial products and consists of over 8,500 standards. Adherence to JIS is also an important determinant for companies competing on bids in the Japanese government procurement process. Products that comply with these standards will be given preferential treatment in procurement decisions under Article 26 of the Industrial Standardization Law. JIS covers all industrial products except for those products regulated by specific national laws or for which other standard systems apply (i.e., the Pharmaceutical Affairs Law and Japan Agricultural Standards).

The Japan Agricultural Standards (JAS) mark is another "voluntary" but widely used product quality and labeling mark. JAS applies to beverages, processed foods, forest products, agricultural commodities, livestock products, oils and fats, products of the fishing industry, and processed goods made from agricultural, forestry, and fishing industry raw materials. Specific JAS marks exist for various types of plywood, paneling, flooring boards, lumber, and timber. The JAS marking system is administered by Japan's Ministry of Agriculture, Forestry and Fisheries (MAFF). Separate mandatory standards for quality labeling of processed foods and beverages are administered by Japan's Ministry of Health and Welfare (MHW). A limited number of testing laboratories in the United States have been designated by Japanese government agencies to test and approve U.S. products for compliance with Japanese mandatory certification systems and laws. Products not covered by these arrangements must be tested and approved by Japanese testing labs before these products can be sold in Japan.

The following two organizations are designated inquiry points in Japan for standards information:

Standards Information Service  
First International Organizations Division  
Economic Affairs Bureau  
Ministry of Foreign Affairs (MOFA)  
2-2-1 Kasumigaseki, Chiyoda-ku  
Tokyo 100-8919, JAPAN  
Tel: +81-3-3581-3813  
Fax: +81-3-3503-3136

Standards Information Service  
Information Service Department  
Japan External Trade Organization (JETRO)  
2-2-5 Toranomon, Minato-ku

Tokyo 105-8466, JAPAN  
Tel: +81-3-3582-6270  
Fax: +81-3-3589-4179

In addition, the Japan Standards Association maintains a library of information about JIS requirements. The Association will translate JIS information into English for a fee based on the number of pages to be translated. If an inquiry is too specific for the Association to answer, it will refer the inquiry to the appropriate Japanese industry organization for a response.

Japan Standards Association  
4-1-2 Akasaka, Minato-ku  
Tokyo 107-0052, JAPAN  
Tel: +81-3-3583-8003  
Fax: +81-3-3586-2029

#### M. PRODUCT LIABILITY LAW

In addition to standards, another point to bear in mind regarding the sale of merchandise in Japan is the Product Liability Law. This law, which went into effect in July 1995, makes manufacturers liable for compensation for injury, death, or damage to property resulting from the sale of defective products whether or not such defects can be attributed to accidental or willful faulty manufacture. Although only a few lawsuits have been filed under this law so far, the number is expected to rise in the future. Manufacturers should take full note of the fact that revisions of the Civil Proceedings Act, which went into effect in early 1998, have made it easier for lawsuits to be filed and heard in court.

#### N. FREE TRADE ZONES / WAREHOUSES

Japan has no free trade zones. However, customs officials do allow the bonding of some warehouses, processing facilities, and exhibition sites on a case-by-case basis. A law enacted in 1992 created a total of 22 Foreign Access Zones (FAZ) scattered throughout Japan. Each FAZ offers a comprehensive range of facilities to handle all stages of importing, from customs clearance to product sorting, processing, and distribution. Many FAZs are equipped with business development facilities such as exhibition halls and seminar rooms. Some FAZs offer full-service bonded areas for foreign cargo. Information on the location and facilities available at each FAZ can be obtained by contacting the Japan External Trade Organization (JETRO).

#### O. MEMBERSHIP IN FREE TRADE AGREEMENTS

Japan is not a member of any free trade agreement. However, it is a member of APEC, which has established a goal of APEC-wide free trade and investment for developed country members by 2010, and for all APEC member countries by 2020.

#### P. SPECIAL IMPORT PROVISIONS

Japan places few formal barriers on imported goods and its average tariff rates are among the lowest in the world, in line with other industrialized nations. Nevertheless, tariff rates on many imported agricultural products remain high. Moreover, many imports face a wide and complex range of standards, certifications, and other informal and technical barriers, including health and sanitary regulations. Thus, the import process is at times slow and difficult.

In response to complaints from trading partners that Japan discourages the consumption of foreign products, the Government of Japan has launched a number of programs in recent years to help foreign companies export to Japan. The Japan External Trade Organization (JETRO), the Manufactured Imports Promotion Organization (MIPRO), and Japan's Ministry of International Trade and Industry (MITI) administer these programs. Assistance available includes low interest loans to encourage imports, assistance in finding Japanese business partners, market research, export study programs, and the provision of free temporary office space in six Japanese cities.

The list of JETRO's import promotion programs is extensive. It includes the dispatch of long-term Senior Trade Advisors to U.S. state governments, where they offer advice on exporting to Japan; the dispatch of short-term import specialists who identify products with potential in the Japanese market; seminar tours to Japan for U.S. business people to better understand the Japanese market; the establishment of Business Support Centers in Tokyo, Yokohama, Nagoya, Osaka, Kobe, and Fukuoka; and the establishment of permanent imported product exhibition sites (for autos, imported homes, and housing materials) throughout Japan. JETRO also publishes numerous market research and trade facilitation information, maintains business-matchmaking databases, organizes import fairs in Japan, and provides import counseling. Information about JETRO and its programs is available at <http://www.jetro.go.jp/>.

## Q. CUSTOMS CONTACT INFORMATION

Ministry of Finance  
3-1-1 Kasumigaseki, Chiyoda-ku, Tokyo 100-0013  
Phone: 81/3/3581-4111  
Website: [www.mof.go.jp/~customs/conte-e.htm](http://www.mof.go.jp/~customs/conte-e.htm)

Customs Counselors System in Japan  
Tokyo Headquarters  
Phone: 81/3/3472-7001  
Website: [www.mof.go.jp/~customs/cselor-e.htm](http://www.mof.go.jp/~customs/cselor-e.htm)

Japan Tariff Association  
Chibiki 2nd Bldg., 8F.  
4-7-8 Kojimachi, Chiyoda-ku, Tokyo 102-0083  
Phone: 81/3/3263-7221 Fax: 81/3/3263-7345  
Website: [www.kanzei.or.jp/english/](http://www.kanzei.or.jp/english/)

APEC Tariff Database  
Website: [www.apectariff.org/](http://www.apectariff.org/)